Mark S. Sidoti
J. Brugh Lower
GIBBONS P.C.
One Gateway Center
Newark, New Jersey 07102
Tel: 973-596-4581
Fax: 973-639-6292

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

BROADCAST MUSIC, INC.; SONGS OF UNIVERSAL, INC.; BENNY BIRD COMPANY, INC.; PAUL SIMON MUSIC; HOUSE OF CASH, INC.; CORAL REEFER MUSIC; BLUES TRAVELER PUBLISHING CORPORATION; and MJ PUBLISHING TRUST d/b/a MIJAC MUSIC, Plaintiffs, v. NPH FLORENCE, LLC d/b/a NOOK'S POURHOUSE; and DAVID SHAFKOWITZ, individually, Defendants.	Civil Action No. ____________ *Document Electronically Filed* **COMPLAINT**

Plaintiffs, by their undersigned attorneys, for their Complaint against Defendants NPH Florence, LLC d/b/a Nook's Pourhouse and David Shafkowitz, individually (collectively, "Defendants"), allege as follows (on knowledge as to Plaintiffs; otherwise on information and belief):

JURISDICTION AND VENUE

1. This is an action for copyright infringement under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the "Copyright Act"). This Court has jurisdiction

pursuant to 28 U.S.C. §§ 1331 and 1338(a).

2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a).

THE PARTIES

3. Plaintiff Broadcast Music, Inc. ("BMI") is a corporation organized and existing under the laws of the State of New York. BMI's principal place of business is 7 World Trade Center, 250 Greenwich Street, New York, New York 10007. BMI has been granted the right to license the public performance rights in approximately 10.5 million copyrighted musical compositions (the "BMI Repertoire"), including those which are alleged herein to have been infringed.

4. The Plaintiffs other than BMI are the owners of the copyrights in the musical compositions, which are the subject of this lawsuit. All Plaintiffs are joined pursuant to Fed. R. Civ. P. 17(a) and 19(a).

5. Plaintiff Songs of Universal, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

6. Plaintiff Benny Bird Company, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

7. Plaintiff Paul Simon Music is a sole proprietorship owned by Paul Simon.

8. Plaintiff House of Cash, Inc. is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

9. Plaintiff Coral Reefer Music is a sole proprietorship owned by James W. Buffet. This Plaintiff is the copyright owner of at least one of the songs in this matter.

10. Plaintiff Blues Traveler Publishing Corporation is a corporation. This Plaintiff is the copyright owner of at least one of the songs in this matter.

11. Plaintiff MJ Publishing Trust is a trust doing business as Mijac Music. This Plaintiff is the copyright owner of at least one of the songs in this matter.

12. Defendant NPH Florence, LLC is a limited liability company organized and existing under the laws of the State of New Jersey that operates, maintains, and controls an establishment known as Nook's Pourhouse (the "Establishment"), located at 2043 Route 130 South, Florence, New Jersey 08518, in this district.

13. In connection with the operation of the Establishment, Defendant NPH Florence, LLC publicly performs musical compositions and/or causes musical compositions to be publicly performed.

14. Defendant NPH Florence, LLC has a direct financial interest in the Establishment.

15. Defendant David Shafkowitz is the sole and managing member of Defendant NPH Florence, LLC, with responsibility for the operation and management of that limited liability company and the Establishment.

16. Defendant David Shafkowitz has the right and ability to supervise the activities of Defendant NPH Florence, LLC and a direct financial interest in that limited liability company and the Establishment.

CLAIMS OF COPYRIGHT INFRINGEMENT

17. Plaintiffs repeat and reallege each of the allegations contained in paragraphs 1 through 16.

18. Since December 2013, BMI has reached out to Defendants over 80 times, by phone, an in-person visit, mail and email, in an effort to educate Defendants as to their obligations under the Copyright Act with respect to the necessity of purchasing a license for the public performance of musical compositions in the BMI Repertoire. Included in the letters were Cease and Desist

Notices, providing Defendants with formal notice that they must immediately cease all use of BMI-licensed music in the Establishment.

19. Plaintiffs allege nine (9) claims of willful copyright infringement, based upon Defendants' unauthorized public performance of musical compositions from the BMI Repertoire. All of the claims for copyright infringement joined in this Complaint are governed by the same legal rules and involve similar facts. Joinder of these claims will promote the convenient administration of justice and will avoid a multiplicity of separate, similar actions against Defendants.

20. Annexed to this Complaint as a schedule (the "Schedule") and incorporated herein is a list identifying some of the many musical compositions whose copyrights were infringed by Defendants. The Schedule contains information on the nine (9) claims of copyright infringement at issue in this action. Each numbered claim has the following eight lines of information (all references to "Lines" are lines on the Schedule): Line 1 providing the claim number; Line 2 listing the title of the musical composition related to that claim; Line 3 identifying the writer(s) of the musical composition; Line 4 identifying the publisher(s) of the musical composition and the plaintiff(s) in this action pursuing the claim at issue; Line 5 providing the date on which the copyright registration was issued for the musical composition; Line 6 indicating the copyright registration number(s) for the musical composition; Line 7 showing the date(s) of infringement; and Line 8 identifying the Establishment where the infringement occurred.

21. For each work identified on the Schedule, the person(s) named on Line 3 was the creator of that musical composition.

22. For each work identified on the Schedule, on or about the date(s) indicated on Line 5, the publisher(s) named on Line 4 (including any predecessors in interest), complied in all

respects with the requirements of the Copyright Act and received from the Register of Copyrights Certificates of Registration bearing the number(s) listed on Line 6.

23. For each work identified on the Schedule, on the date(s) listed on Line 7, Plaintiff BMI was (and still is) the licensor of the public performance rights in the musical composition identified on Line 2. For each work identified on the Schedule, on the date(s) listed on Line 7, the Plaintiff(s) listed on Line 4 was (and still is) the owner of the copyright in the respective musical composition listed on Line 2.

24. For each work identified on the Schedule, on the date(s) listed on Line 7, Defendants publicly performed and/or caused to be publicly performed at the Establishment the musical composition identified on Line 2 without a license or permission to do so. Thus, Defendants have committed copyright infringement.

25. The specific acts of copyright infringement alleged in the Complaint, as well as Defendants' entire course of conduct, have caused and are causing Plaintiffs great and incalculable damage. By continuing to provide unauthorized public performances of works in the BMI Repertoire at the Establishment, Defendants threaten to continue committing copyright infringement. Unless this Court restrains Defendants from committing further acts of copyright infringement, Plaintiffs will suffer irreparable injury for which they have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that:

(I) Defendants, their agents, servants, employees, and all persons acting under their permission and authority, be enjoined and restrained from infringing, in any manner, the copyrighted musical compositions licensed by BMI, pursuant to 17 U.S.C. § 502;

(II) Defendants be ordered to pay statutory damages, pursuant to 17 U.S.C. § 504(c);

(III) Defendants be ordered to pay costs, including a reasonable attorney's fee, pursuant to 17 U.S.C. § 505; and

(IV) Plaintiffs have such other and further relief as is just and equitable.

Dated: November 21, 2016
Newark, New Jersey

GIBBONS P.C.

By: s/ J. Brugh Lower

Mark S. Sidoti
J. Brugh Lower
One Gateway Center
Newark, New Jersey 07102
Tel: 973-596-4581
Fax: 973-639-6292
msidoti@gibbonslaw.com
jlower@gibbonslaw.com

Attorneys for Plaintiffs

Schedule

Line 1	Claim No.	1
Line 2	Musical Composition	American Pie
Line 3	Writer(s)	Don McLean
Line 4	Publisher Plaintiff(s)	Songs of Universal, Inc.; Benny Bird Company, Inc.
Line 5	Date(s) of Registration	10/7/71 2/7/72
Line 6	Registration No(s).	Eu 284299 Ep 295357
Line 7	Date(s) of Infringement	06/09/16
Line 8	Place of Infringement	Nook's Pourhouse

Line 1	Claim No.	2
Line 2	Musical Composition	Cecilia
Line 3	Writer(s)	Paul Simon
Line 4	Publisher Plaintiff(s)	Paul Simon, an individual d/b/a Paul Simon Music
Line 5	Date(s) of Registration	11/28/69 6/25/70
Line 6	Registration No(s).	Eu 150494 Ep 275452
Line 7	Date(s) of Infringement	06/09/16
Line 8	Place of Infringement	Nook's Pourhouse

Line 1	Claim No.	3			
Line 2	Musical Composition	Cheeseburger In Paradise			
Line 3	Writer(s)	Jimmy Buffett			
Line 4	Publisher Plaintiff(s)	James W. Buffett, an individual d/b/a Coral Reefer Music			
Line 5	Date(s) of Registration	5/30/78			
Line 6	Registration No(s).	PA 55-980			
Line 7	Date(s) of Infringement	06/09/16			
Line 8	Place of Infringement	Nook's Pourhouse			

Line 1	Claim No.	4			
Line 2	Musical Composition	I Walk The Line			
Line 3	Writer(s)	John R. Cash			
Line 4	Publisher Plaintiff(s)	House of Cash, Inc.			
Line 5	Date(s) of Registration	2/13/84	2/13/84	6/13/56	4/26/56
Line 6	Registration No(s).	RE 196-375	RE 196-286	Ep 100135	Eu 435121
Line 7	Date(s) of Infringement	06/09/16			
Line 8	Place of Infringement	Nook's Pourhouse			

Line 1	Claim No.	5	
Line 2	Musical Composition	Margaritaville	
Line 3	Writer(s)	James William Buffett a/k/a Jimmy Buffett	
Line 4	Publisher Plaintiff(s)	James W. Buffett, an individual d/b/a Coral Reefer Music	
Line 5	Date(s) of Registration	2/14/77	2/22/80
Line 6	Registration No(s).	Eu 763463	PA 59-700
Line 7	Date(s) of Infringement	06/09/16	
Line 8	Place of Infringement	Nook's Pourhouse	

Line 1	Claim No.	6
Line 2	Musical Composition	Me And Julio Down By The Schoolyard
Line 3	Writer(s)	Paul Simon
Line 4	Publisher Plaintiff(s)	Paul Simon, an individual d/b/a Paul Simon Music
Line 5	Date(s) of Registration	11/15/71
Line 6	Registration No(s).	Eu 292677
Line 7	Date(s) of Infringement	06/09/16
Line 8	Place of Infringement	Nook's Pourhouse

Line 1	Claim No.	7
Line 2	Musical Composition	Run Around
Line 3	Writer(s)	John Popper
Line 4	Publisher Plaintiff(s)	Blues Traveler Publishing Corporation
Line 5	Date(s) of Registration	10/28/94
Line 6	Registration No(s).	PA 734-714
Line 7	Date(s) of Infringement	06/09/16
Line 8	Place of Infringement	Nook's Pourhouse

Line 1	Claim No.	8
Line 2	Musical Composition	Way You Make Me Feel a/k/a The Way You Make Me Feel
Line 3	Writer(s)	Michael Jackson
Line 4	Publisher Plaintiff(s)	MJ Publishing Trust d/b/a Mijac Music
Line 5	Date(s) of Registration	6/23/87
Line 6	Registration No(s).	PAu 994-389
Line 7	Date(s) of Infringement	03/27/15
Line 8	Place of Infringement	Nook's Pourhouse

Line 1	Claim No.	9		
Line 2	Musical Composition	Pirate Looks At Forty a/k/a A Pirate Looks At Forty		
Line 3	Writer(s)	Jimmy Buffett		
Line 4	Publisher Plaintiff(s)	Songs Of Universal, Inc.		
Line 5	Date(s) of Registration	12/9/74	4/13/82	6/24/82
Line 6	Registration No(s).	EU 541397	PA 134-807	PA 143-238
Line 7	Date(s) of Infringement	06/09/16		
Line 8	Place of Infringement	Nook's Pourhouse		